



COUNTY OF SAN BENITO

RONALD C. ROSS

AGRICULTURAL COMMISSIONER and SEALER OF WEIGHTS & MEASURES

San Benito County Agricultural Commissioner

Pesticide Use Enforcement Negotiated Work Plan

2011-2013

**3224 Southside Road, P O Box 699, Hollister, CA 95024-0699
Telephone (831) 637-5344 Fax (831) 637-9015
San Benito County Agricultural Commissioner's Office**

Pesticide Use Enforcement Work Plan 2011 - 2013

Available Pesticide Use Enforcement Resources

(1) Deputy Commissioner	(0.35 person/year)
(1) Senior Biologist/Inspector	(0.45 person year)
(2) Biologist/Inspector III	(0.35 person/year)
(1) Biologist/Inspector III	(0.25 person/year)
(1) Biologist/Inspector I	(0.35 person/year)

In this workplan, where a reference is made to an “Inspector/Biologist”, it also includes the Deputy Commissioner.

Other Assets

Each Biologist/Inspector has a radio-equipped vehicle, a digital camera, and a cell phone. They also have their own office with a networked computer equipped with email, broadband Internet access and is capable of issuing Restricted Materials Permits via the RMPP program.

Pesticide Use Enforcement Workload (actual 2009 numbers)

Restricted Material Permits issued: 157

Operator ID numbers issued: 82

Private Applicators certified: 38

Notices of Intent received: 1,161

Pesticide Use Reports received (estimate): 7,000

A. Restricted Materials Permitting

Permit Evaluation-Process Evaluation and Improvement Planning

Permit-Evaluation

Applicants who apply Restricted Materials will contact this office prior to obtaining a Restricted Materials Permit. The inquiry is transferred to an Agricultural Inspector/Biologist who has the appropriate pesticide use enforcement license. The applicant is questioned on the particulars of his proposed application. Questions regarding the location, who will do the application, the timing of the proposed application and what Restricted Materials will be applied are asked and documented.

Applicants will be asked who owns or controls the property. The applicant must be the one who has the full authority to start, stop or otherwise control the use of the pesticides covered by the permit. The person who oversees the application of Restricted Materials must be a Certified Applicator. Normally, the person who will do the application will take an exam and become a Certified Private Applicator if they are not already a certified applicator. Occasionally, the use of Restricted Materials will be conducted solely by a

licensed Pest Control Business and the applicant will not be supervising its use or be involved in training employees. In certain situations, the applicant will not become a certified applicator and the Restricted Material Permit will be conditioned to only allow handling, transportation and storage of RM by the Pest Control Business.

Next, the Restricted Materials are evaluated as far as their impact to the surrounding environment. These would include residences, schools, susceptible crops, waterways, etc. The identification of these sensitive areas is noted on a map that is prepared and reviewed by both the applicant and the Inspector/Biologist. Maps are reviewed for accuracy each time the permit is issued. If needed, the use of the Restricted Material is conditioned to mitigate any hazard identified in the surrounding area.

The Inspector/Biologist may use a permit condition from a pre-made list or may write a specific condition to address a mitigation measure to reduce the environmental impact of a Restricted Material. Conditions may include specific buffer zones, application timing constraints or restrictions on the method of application. For certain pesticides, the County will use the suggested permit conditions that have been developed by DPR.

After a Restricted Materials Permit is issued, the applicant must notify the County at least 24 hours before a proposed application of Restricted Materials. In almost all cases, the applicant or their pest control business will send the appropriate notice (Notice of Intent) via fax. Occasionally, the applicant will hand deliver the notice in person during normal business hours or by way of a drop slot at the office. The Notice of Intents are reviewed during the workday as they are received. Proposed applications for field fumigation involving Methyl Bromide have different notification requirements.

Each Saturday at 2:00 PM, the on-call Inspector/Biologist will review the Notice of Intents that were received after the office closed on Friday afternoon. The Notices of Intent that are received on Sunday are reviewed immediately on Monday morning at the start of the business day. On three-day weekends, the Notice of Intents is checked on both Saturday and Sunday at 2:00 PM.

In 2011, this office is scheduled to transition to the new CalAgPermits restricted material permit computer program. This will result in a substantial change in the method of issuing restricted material permits. This new program will also integrate GIS maps with the permit, allowing for more precise data collection on pesticide use. It is expected that considerable staff time will be diverted to training and to for imputing new data to bring this system fully on line.

Goal or Objective

- Continue to review and update the standard permit conditions as regulations, policies and local conditions change.
- Implement the CalAg permit system for all restricted material permits.

Deliverables

- Modify the standard permit conditions to reflect changes in regulations and local conditions.
- Have the new CalAgPermits restricted material permit program fully functional by the 2012 permit season.

Site-Monitoring Plan

Site-Monitoring Plan Development

Throughout the year, the County conducts inspections of proposed application sites as identified by the notice of intents that are received. As required by regulation, the County will personally field check at least 5% of the agricultural use notices of intent received. This field check (pre-site inspection) is done before the proposed application date to double check if the proposed application can be done safely. The NOIs are evaluated by the Inspector on Duty as they are received. NOIs that are felt to pose more than an ordinary hazard are flagged for a pre-site inspection.

In addition to NOIs selected by the Inspector on Duty, a pre-site inspection is conducted on all NOIs for Metam Sodium applications that are scheduled near sensitive sites. The Inspector/Biologist who has been assigned “pesticide duty” for the month normally conducts pre-site inspections.

To ensure that our pre-site inspection goal is reached by the end of FY, the year is divided into quarters and the number of pre-site inspections is recorded. The progress is monitored by the Deputy to ensure that the yearly goal is reached.

Goal or Objective

- Continue to perform pre-site evaluations for Metam Sodium near sensitive areas.
- Each non-ag permit will be inspected once a year.
- As NOIs are reviewed, continue to flag and field check proposed applications that are scheduled near sensitive sites such as susceptible crops, residences and other occupied structures.

Deliverables

- Every quarter, the number of pre-site inspections are reviewed to ensure that we are at or exceed our 5% requirement.
- The Inspector-on-Duty will monitor incoming NOIs for non-ag permits and flag for inspection.

Measure Success

- The goal of the site monitoring is to prevent adverse environmental and health effects from the result of misapplications. The compliance level achieved for the year can determine the success of our site-monitoring plan.
- At the end of the season, compare the number of inspections for non-ag permits to the number of PURs submitted to determine if required pre-site inspections were completed.

B. Compliance Monitoring

Comprehensive Inspection Plan

Comprehensive Inspection Plan

Inspections are conducted either when Inspector/Biologists are conducting surveillance specifically for pesticide applications or when an application is noticed when doing other Agriculture/Weights & Measures activities. Each Inspector/Biologist is assigned a month where they are expected to perform an assigned number of inspections. Prior to leaving the office for surveillance, the Inspector/Biologist will review that day's NOIs. The Inspector/Biologist will base his priorities for the day based on the location and type of applications proposed.

Headquarter inspections are generally scheduled with the operator. The selection of the operator to audit is based on a number of factors. These include the number of employees, the frequency and type of applications (including toxicity of pesticides generally used), the growing of labor intensive crops and their location. Headquarter inspections are often conducted as a result of a follow-up to a non-compliance found during a field inspection.

At the completion of inspections, copies of the inspections are placed in the operator's permit file. Also the name of the operator and the type of inspection is logged into the inspection binder. This is done to track what inspections have been done to which operator so their compliance history can be checked. Each Inspector/Biologist follows up on the non-compliances found during the inspections after advising the Deputy with their findings.

The Deputy Agricultural Commissioner on a monthly basis also reviews the inspections.

Application Inspections	35
Dealer	1
Grower HQ	10
Field Worker Safety	21
Fumigation (field)	2
Fumigation (structural)	2
Fumigation (commodity)	2

Mix/Load	25
Pre-Site	5%
Structural (Branch 2)	(substitute for other inspections)

This year, we are going to focus on increasing our inspections in structural pest control. This is one area where we have not had a large presence in the past and increased inspections will allow us to spot check their compliance rate. For this workplan, we will substitute an agricultural inspection for each Branch 2 inspection completed.

Goal or Objective

- Continue the inspection program that is in place with emphasis on even distribution of inspections throughout the year. The current inspection balance between Pest Control Business and owner/operators will be maintained.
- Internal review of inspections with emphasis on appropriate follow-up to non-compliances found.
- Pest Control Dealers will be audited on a rotating basis (there are three dealers in County, the goal will be one audit per year).
- Increased emphasis on structural pest control.

Deliverables

- Monitor inspection numbers throughout the year and document progress.
- Target late night and early morning applications for inspections.

Measure Success

- Monitor progress of the activities that are listed under deliverables.

Investigative Response and Reporting Improvement

Investigation Response and Reporting

Priority incidents and routine illnesses are immediately assigned to a Biologist/Inspector for investigation. Investigations follow the timelines established by DPR and reports are written in the appropriate format. The County receives very few incident reports, usually no more than 2-3 year. A priority investigation is very rare, usually occurring only once every other year.

Complaints from the public are normally routed to the Inspector-on-Duty. Often complaints can be resolved on the phone. If not, the complainant is referred to another Inspector/Biologist for either record and/or field investigation. Complaints are placed in a file for review by the DPR Enforcement Branch Liaison on a monthly basis.

Goal

- Document all complaints.

Deliverables

- On a monthly basis, summarize the complaints to DPR on Report #5.

Measure Success

- Monitor the complaint log to ensure that all complaints are being logged, completed and that they are available for review by DPR.

C. Enforcement Response

Enforcement Response Evaluation

When an inspection, complaint or investigation is completed, the Inspector/Biologist reviews the operator's pesticide file for the party involved. In each file, copies of past actions are kept. The Inspector/Biologist reviews the past history to determine if violations have been noted in the past. The Deputy is advised of the situation and the enforcement response regulations are consulted to determine the appropriate level of enforcement action. The hazard of the non-compliance along with the violator's past history is considered when determining the enforcement response.

Based on: (1) the circumstances of the current violation, (2) the past violations found in the file and (3) the enforcement response regulations, the Commissioner is consulted to determine the appropriate action for this incident. In situations where a civil penalty is not assessed, a decision report is completed when required. The decision report is forwarded to DPR for their review. When violations are uncovered involving priority investigations or any other case where the violation created an actual health or environmental hazard, then other enforcement options will be considered such as referral to the District Attorney.

Generally, actions are taken within the month that the inspection/investigation was completed.

Goal or Objective

- Effective enforcement system that promotes compliance by the regulated industry.

Deliverables

- Review individual operator files when inspections are done to verify if the current enforcement program has resulted in increased compliance.

D. Other Activities

Outreach/Education

Throughout the year, the commissioner's staff assists with continuing education (CE) workshops sponsored by the local University of California Cooperative Extension (UCCE) and the Weed Management Area (WMA). We will provide one-half hour of laws and regulations CE at each workshop. Generally, there will be two workshops sponsored by the UCCE and one sponsored by the WMA, so the opportunities for license/certificate holders to obtain laws and regulations hours is limited.

Three years ago, we sponsored our own CE class that addresses laws and regulations. The class was be two hours in length. This class was repeated again last year and over 70 growers and license holders attended. Due to the popularity of the class, it will be repeated again for this year. Not only does this class provide additional opportunities for CE credit for the local growers, but it should also raise awareness of pesticide regulation within this group. This should result in an increase in compliance levels because of better knowledge of pesticide laws and regulations.